

OGC Has Reviewed

OGC 73-0129

24 January 1973

MEMORANDUM FOR: DD/Pers-SP

SUBJECT : CIA Appointment of GEHA Directors

1. This is in response to the request for language which would revise the GEHA bylaws to provide that the directors be appointed by each Deputy Director (two directors) of the Agency and the Executive Director (one director) rather than by election of the membership as is now provided.

2. The statute under which GEHA is organized and operates provides that the incorporators and their associates and successors shall be a body politic and corporate. Further, such "incorporated society may elect its trustees, directors, or managers at such time and place and in such manner as may be specified in its bylaws". Neither the statute nor the GEHA certificate of incorporation (charter) provides authority for the selection of directors by any means other than the foregoing. Since it is a basic rule of corporate law that corporations have only the authority granted by statute and charter, it follows that GEHA may not provide for the appointment of its directors by CIA officials.


3. There would be no objection, however, to an amendment permitting the directors to select their successors. We will be glad to draft suggested revisions of the bylaws for this purpose.

4. The current bylaws, as you know, provide that the directors are to be elected by the membership at the annual meeting, which is in January. The solution to our present

time squeeze, consistent with basic corporate law, would seem to be simply to permit the current directors to continue to serve pending an appropriate revision of the bylaws and the selection of new directors. It might be well also to have the newly elected directors ratify the actions of their predecessors during the interim period.

5. Under the GEHA bylaws the bylaws themselves may be amended by the directors. However, there is authority for the proposition that bylaws may not be amended by the directors to take from the members their right to elect their own directors. Also, sound business practice suggests that such action would be unwise. The solution here would be to have the bylaws amended by the directors and ratified by the members, which could be done at a special meeting under Sections 2 and 3 of Article IV.

25X1A



Associate General Counsel

OGC:RHL:sin

Original - Addressee

- 1 - INSURANCE subj
- 1 - RHL signer
- 1 - Chrono

*file in
Insurance*

BY - LAWS

GOVERNMENT EMPLOYEES' HEALTH ASSOCIATION
As Approved 17 January
1956

Article I

Name - Purposes

Section 1.

The name of this corporation shall be the Government Employees' Health Association, Inc. (GEHA, Inc.).

Section 2.

The particular business and object of this corporation shall be to establish and maintain an employee benefit association providing group or other insurance benefit programs to members and their dependents in such manner as to comply with the operational and security requirements of the Central Intelligence Agency. In this connection, the Association will negotiate favorable insurance contracts with the underwriting companies or agents acceptable to the Association. These contracts will be drawn so as to fulfill the insurance requirements peculiar to the membership of the Association. The Association shall also assure that proper arrangements are made to provide for the collection of individual premiums, transmissions of monthly premium payments to underwriting companies and for the proper payment of claims.

Article II

Qualifications for Membership

Section 1.

The membership shall generally be limited to Staff Employees, Staff Agents and civilian and military details to the Central Intelligence Agency. However, upon the specific approval of the Board of Directors, certain Contract Employees may also be eligible for GEHA membership.

S-E-C-R-E-T

Section 2.

Any person who is eligible for membership must make application therefor in writing. The Board of Directors, or their duly authorized representatives, must accept or reject any such application, and such action thereon shall be final. Retention of membership shall be at the discretion of the Board of Directors.

Article III

Membership Fee and Dues

Section 1.

Any person eligible for membership shall, upon applying therefore, pay a membership fee and such dues as may be prescribed by the Board of Directors.

Article IV

Meetings of Members

Section 1.

The annual meeting of the members shall be held during January of each year at the headquarters of the Central Intelligence Agency at such time and date as the Board of Directors shall designate. ✓

Section 2.

At least 10 days before the date of any annual or special meeting of the members, the Secretary shall cause to be published through established Agency facilities or otherwise, a notice of such annual or special meeting setting forth the date, time, and place of such meeting and in case of a special meeting, the purpose thereof.

S-E-C-R-E-T

Section 3.

Special meetings of the members shall be called by any officer on the written request of at least three members of the Board of Directors or twenty members of the Association. Only the business for which such special meeting is called shall be considered.

Section 4.

The order of business at all annual and special meetings of the Association shall be as follows, insofar as such order may be consistent with the purpose of the meeting:

1. Ascertainment that a quorum is present.
2. Reading of the minutes of the last meeting.
3. Reports of officers.
4. Reports of committees.
5. Unfinished business.
6. New business.
7. Election of Directors.

The members assembled at any annual meeting may suspend the order of business upon a two-thirds vote of the members present at the meeting.

Section 5.

Except as hereinafter provided, at annual or special meetings 15 members physically present shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not fewer than 7 nor more than 15 days thereafter; and the members present at such adjourned meeting shall constitute a quorum, regardless of the number of members present. The same notice shall be given for the adjourned meeting as is prescribed in Section 2 of this Article for the original meeting, except such notice shall be given not fewer than 5 days previous to the date of the meeting as fixed in the adjournment.

Article V

Board of Directors

Section 1.

~~The Board of Directors shall consist of seven members, all of whom shall be members of the Association and Staff Employees of the Central Intelligence Agency, assigned to headquarters.~~

~~The Board of Directors shall consist of nine members, all of whom shall be members of the Association and Staff Employees of the Central Intelligence Agency, assigned to headquarters. -- The nine members shall be elected as follows: 3 from the DD/S component, 3 from the DD/I component, and 3 from the DD/P component. (As approved 18 December 1956.)~~

The Board of Directors shall consist of nine members, all of whom shall be members of the Association and Staff Employees of the Central Intelligence Agency, assigned to headquarters. (The nine members shall be elected as follows: 2 from the DD/S component, 2 from the DD/I component, 2 from the DD/P component, 2 from the DD/R component and 1 from the Office of the Director.) (As approved 13 November 1962.)

] *Amended*

Section 2.

~~The Directors shall be elected at the annual meeting of the Association for a term of one year and shall serve without compensation. -- At least three months prior to the annual meeting, the Board of Directors of the Association shall have appointed a nominating committee of at least three members of the Association. -- This nominating committee shall present to the annual meeting a slate of nominees for the Board of Directors. -- At least two months prior to the annual meeting, the Secretary of the Association shall have published, through the appropriate medium, notice of the slate of nominees as determined by operational and security requirements. Members of the Association in accessible areas may cast their vote for the slate of directors or may write in the names of other nominees if they so choose. -- All absentee ballots executed must be received by the Secretary of the Association prior to the close of voting at the annual meeting. -- The Secretary shall then cause a count to be made of all absentee ballots received and shall integrate said ballots with those cast at the annual meeting. After a full and complete tally of all votes cast, the Secretary shall publish the names of the newly-elected directors through the appropriate medium.~~

(The Directors shall be elected at the annual meeting of the Association for a term of one year and shall serve without compensation. (As approved 18 December 1956))

] *amend*

Section 3.

(At least three months prior to the annual meeting, the Board of Directors of the Association shall have appointed a nominating committee of at least three members of the Association.) This nominating committee shall prepare a slate of nominees for the Board of Directors. (At least one month prior to the annual meeting) the Secretary of the Association shall have published notice of the slate of nominees through the appropriate medium as determined by operational and security requirements. Members of the Association in headquarters (excluding U. S. and Foreign Field Areas) may cast their vote for the slate of directors by absentee ballot. All executed absentee ballots must be received by the Secretary of the Association at least 4 days prior to the annual meeting. The Secretary shall then cause a count to be made of all absentee ballots received and shall integrate said ballots with those cast at the annual meeting. A tally of absentee ballots and votes cast at the meeting shall be made at the annual meeting. (As approved 18 December 1956.)

] *amend*

Section 4.

§ (Vacancies in the Board, occurring between annual meetings) shall be filled for the unexpired portion of the term by the vote of the remaining Directors.) (All Directors, elected by the Association, shall continue to hold office until the next annual meeting of the Association shall actually be held) unless they resign their office or are otherwise disqualified by these By-laws in the interim period, in which event the vacancies so resulting shall be filled by the vote of the remaining Directors. From among their membership the Board of Directors shall elect by written ballot a Chairman who shall preside at all Directors' meetings. In the absence of the Chairman, the Directors present shall elect from their number a Chairman pro tempore.

] *amend*

Section 5.

Meetings of the Board of Directors shall be held in the months of February, May, August and December and at such other times as the Chairman deems necessary or any two Directors may request. Notice of the Directors' Meetings shall be given in such manner as the Board of Directors shall by resolution prescribe.

Section 6.

At any meeting of the Board of Directors not less than 5 shall constitute a quorum, counting the Chairman in the number.

Section 7.

The Board of Directors shall establish policy and be responsible for the proper administration and management of the affairs of the Association; and may adopt such rules and regulations for the conduct of its meetings and the management of the Association as it may deem proper, not inconsistent with law, these By-laws, or the operational and security requirements of the Central Intelligence Agency.

Section 8.

The Board of Directors shall also be responsible for causing an independent audit to be made of all Association financial records at least annually.

Section 9.

In case of the absence of any officer of the Association, or for any other reason that the Board of Directors may deem sufficient, the Board may delegate the powers or duties of such officer to any other officer or to any Director for such time as may be specified.

Article VI ✓

Officers and their DutiesSection 1.

The Officers of the corporation shall be: a President, who may also be a director; a Vice-president; a Treasurer; a Secretary; all of whom shall be elected by the Board of Directors and must be members and Staff Employees. Any two of these offices may be held by one person, except that one person may not hold both the office of President and Vice-president concurrently. The Board of Directors in its discretion may also elect an Assistant Secretary. (Unless sooner removed by action of the Board of Directors, resignation or death, the officers elected at the first meeting of the Board of Directors after each annual meeting shall hold office for one year or until the election of his successor.)

S-E-C-R-E-T

Section 2.

The President shall: preside at all meetings of the members; after approval by the Board of Directors, execute contracts on behalf of the Association; call meetings as required and perform such other duties as customarily appertain to the office of president or as he may be directed to perform by resolution of the Board of Directors not inconsistent with the provisions of law or these By-laws.

Section 3.

The Vice-president shall have and exercise all the powers, authority, and duties of the President during the absence of the latter or his inability to act.

Section 4.

The Treasurer shall keep a true and faithful individual account with each member; keep a true and faithful account and custody of monies, assets, and investments received on behalf of the Association, and of all monies disbursed, and for what purpose; keep the fund of the Association as a deposit or deposits in the name of the Association in such banks or trust companies as the Board of Directors may direct; pay out monies of the Association on proper bills or vouchers and endorse negotiable instruments on which the Association is the payee. He shall submit a report at the annual meeting and shall perform all other duties of the office that may properly pertain thereto and shall be bonded in such sum as the Board of Directors may decide. Upon completion of his term of office, for any reason, he shall turn over to his successor, or to such person as the Board of Directors may designate, all funds, papers, books, and other property of the Association of whatsoever nature, and wherever located, that may be in his possession or custody.

Section 5.

The Secretary shall keep the minutes of the meetings of the Directors and members; shall attend to the serving of notices of meetings of Directors and members; shall attend to the correspondence of the Association; and shall perform all other duties incidental to his office.

Article VII

Surplus Funds and Dividends

Section 1.

The Board of Directors shall have authority to invest and expend funds of the Association as they deem best; provided any such investments shall

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~~be made only in such securities as are sanctioned by the laws pertaining to the District of Columbia for the investment of trust funds and shall further have authority to determine policy for the disposition of any insurance dividends under any particular insurance contract, in such manner as it may deem to be in the best interests of the membership.~~

(This deletion was approved by the Board on 25 February 1969.)
to perform by resolution of the Board of Directors not inconsistent with the provisions of law or the **Article VIII**

Sect. Amendments to By-laws and Certificate of Incorporation

Section 1.

Amendments to these By-laws may be adopted and amendments to the charter requested by the affirmative vote of a majority of the members of the Board of Directors at any duly held meeting thereof if the members of the Board of Directors have been given 7 days' notice of said meeting and the notice has contained a copy of the proposed amendment or amendments.

Article IX

Effective 9 July 1960 the following requirements for membership are applicable for those individuals participating in the Health Benefits Plan established in conformity with Public Law 86-382 and the regulations of the Civil Service Commission pertinent thereto.

Section 1.

a. GEHA shall accept membership without regard to age, race, or sex of the employee.

b. GEHA shall accept membership without regard to the pre-existing physical condition of the employee or the hazardous nature of his employment.

c. Membership in GEHA shall not be terminated because of age, race, sex, physical condition of the employee or the hazardous nature of employment.

d. Members participating in the Federal Employees Health Benefits Act may continue their membership in this Plan after their retirement from the Central Intelligence Agency.

CERTIFICATE OF INCORPORATION

We, the undersigned, all citizens of the United States and a majority citizens and residents of the District of Columbia, desiring to associate ourselves as a corporation pursuant to the provision of Title 29 of Chapter 6 of the District of Columbia Code (1940), do hereby certify as follows:

First. The name or title by which this corporation shall be known in law shall be the "Government Employees' Health Association.

Second. The term for which it is organized shall be perpetual.

Third. The particular business and objects of said corporation shall be an employees' beneficiary association providing for the payment of accident and hospital benefits to members or their dependents.

Fourth. The number of its trustees, directors or managers for the first year of its existence shall be three.

IN TESTIMONY WHEREOF, we have this 24th day of June, 1948, hereunto set our hands and seal.

/s/ [REDACTED] (Seal) 25X1A
/s/ [REDACTED] (Seal)
/s/ [REDACTED] (Seal)

DISTRICT OF COLUMBIA, SS:

25X1A

25X1A I, [REDACTED], a Notary Public in and for the District of
25X1A Columbia, do hereby certify that [REDACTED]
[REDACTED] parties to a certain Certificate of Incorporation bearing 25X1A
date on the 24th day of June 1948, and hereto annexed, personally appeared
before me in said District, the said [REDACTED]
25X1A [REDACTED] being personally well known to me as the persons who
executed the said Certificate of Incorporation, and severally acknowledged
the same to be their act and deed.

Given under my hand and seal this 24th day of June 1948.

/s/ [REDACTED] 25X1A
My Commission Expires February 28, 1961.

Certification of Amendment
of
Certificate of Incorporation
of
Government Employees' Health Association

We, being the duly elected Vice-President and Secretary-Treasurer, respectively, of Government Employees' Health Association, do hereby certify that not less than two-thirds of the Board of Directors of the Association, at a duly constituted meeting on September 16, 1958, adopted the attached resolution amending the Certificate of Incorporation of the said corporation and signified their consent by setting their hands and seals thereto.

The term for which the corporation is organized continues to be perpetual.

IN TESTIMONY WHEREOF we have this 26th day of September 1958 hereunto set our hands and seals.

/s/ [REDACTED] 25X1A
[REDACTED] Vice-President 25X1A

/s/ [REDACTED] 25X1A
[REDACTED] Secretary-Treasurer 25X1A

DISTRICT OF COLUMBIA, SS:

25X1A I, [REDACTED] a Notary Public in and for the District of Columbia, do hereby certify that [REDACTED] parties to the 25X1A above certification of amendment of a certain certificate of incorporation, the certification bearing date of the 26th day of September 1958, personally appeared 25X1A before me in said District, the said [REDACTED]

being personally well known to me as the persons who executed the said
certification, and both acknowledged the same to be their act and deed.

Given under my hand and seal this 26th day of September 1958.

/s/

[REDACTED]

25X1A

My Commission Expires 14 August 1962.

RESOLUTION

WHEREAS it is deemed desirable by the Board of Directors of Government Employees' Health Association, a corporation organized under Title 29, Chapter 6, of the District of Columbia Code and recorded on 29 June 1948, to amend the third paragraph of the Certificate of Incorporation of the corporation,

NOW THEREFORE be it resolved that the said third paragraph is hereby amended to read as follows;

"The particular purposes and objects of the said corporation shall be to engage in benevolent, educational and scientific activities and for the mutual improvement of its members."

IN TESTIMONY WHEREOF we do hereby set our hands and seals this 16th day of September 1958.

/s/ [REDACTED]	25X1A
(Chairman, Board of Directors)	
/s/ [REDACTED]	25X1A
(Member)	
/s/ [REDACTED]	25X1A
(Member)	
/s/ John R. Tietjen, M.D.	
(Member)	
/s/ [REDACTED]	25X1A
(Member)	
/s/ [REDACTED]	25X1A
(Member)	
/s/ [REDACTED]	25X1A
(Member)	

Filed: 9/29/58

By : [REDACTED] /s/

Superintendent of Corporations